THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1050 of 2000

25-07-2005

Between:

A. Subrahmanya Chary and another,

..... APPELLANTS

AND

1. The A.P.S.R.T.C., Musheerabad, Hyderabad rep.by its

Vice Chairman and Managing Director

And two others.

.....RESPONDENTS

The Court made the following :

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JUDGMENT: (Per the Hon'ble Smt Justice T.Meena Kumari)

1. The appellants, call in question, the legality of the order of dismissal rendered by a learned single Judge of this Court dated 9.3.2000 in W.P.No.3858 of 2000, which was filed seeking to declare the action of the respondents in not regularizing the services of the petitioners from the date of their initial appointment while giving the same benefits to other candidates who were appointed subsequent to their appointment as arbitrary.

2. The unsuccessful writ petitioners are the appellants herein. The facts necessary to resolve the controversy between the parties as set out in the writ petition are that;

The petitioners were originally appointed as drivers in the respondents-Corporation on casual basis through the proceedings dt. 1.7.1985 and 6.6.1985 respectively and subsequently they were appointed as drivers in the pay scales w.e.f. 1.8.1986. Further in 1987 the respondents-Corporation absorbed certain displaced employees who joined the services much later to the petitioners and regularized their services from the date of their initial appointment i.e., from 13-2-1987. It is further stated that in similar circumstances, in respect of other casual drivers appointed in 1986 subsequent to the petitioners, the respondents-Corporation regularized their services in Prakasam Region from the date of their initial appointments in pursuance of the orders of this Court in W.P. 31136 of 1997, dt. 15-4-1999. Hence, the action of the respondents-Corporation in ignoring the petitioners from applying the same principle to regularize their services with effect from their initial appointment i.e., 1-7-1985 and 6-6-1985 is arbitrary and illegal. Hence, the writ petition. The learned single Judge of this Court dismissed the writ petition on the ground that the same is hit by laches. Aggrieved by the said findings, the present appeal has been preferred.

Learned Counsel appearing on behalf of the appellants submits that the relief sought in the writ petition was to regularize the services of the petitioners from the date of their initial appointment as the same benefit was given to certain other employees who were appointed subsequent to the appellants in proceedings dated 23-8-1999. Learned Counsel also submits that by virtue of the proceedings dt. 23-8-1999, the Corporation has regularized the services of certain other similarly placed employees, who were juniors to the appellants, in pursuance of the orders of this Court made in W P.No. 31136 of 1997 and as such the appellants have become juniors and their juniors have become seniors to them. He further submits that the

observations made by the learned Single Judge that petitioners have approached the Court nearly after 14 years is not correct, since the services of the appellants have been regularized by virtue of the orders passed in 1999 and hence there is no delay or laches on the part of the appellants. Learned Counsel further submits that the appellants would be benefited of only one year service if the writ petition is allowed as their claim has been made basing on the circular issued by the respondents-Corporation in proceedings No.I P2/255(6)/99-OGL dated 23-8-1999.

The learned Standing Counsel appearing on behalf of the respondents-Corporation has countenanced the above said contention on the ground that the learned Single Judge has rightly held that the appellants have approached this Court with a delay of 14 years and rejected their claims.

Heard the learned counsel on either side and perused the impugned order and other material available on record. The learned counsel for the appellants has relied upon a judgment rendered by the Apex Court in *Divisional Manager, APSRTC v., P. Lakshmoji Rao*. In para 18 the said Judgment the Supreme Court observed as follows:

> "18. In view of this peculiar situation and in order to avoid the anomalies that might otherwise ensue, while we hold that the respondent-employees have failed to establish their legal right to get the status of regular employees right from the date of their initial appointment on daily wage basis and the respective dates of regularization assigned to the respondents cannot be legally faulted, we are inclined to mould the relief in modification of the directions given in the judgments under appeal and direct as follows;
>
> If any of the Conductors, juniors to the respondents in the relevant seniority list of the concerned Division/Region, have got the benefit of seniority and regularization OR are entitled to get the same by virtue of the judgments that have become final, then the respondents who are seniors to them, shall be given the same benefit on the same principle."

In the light of the above judgment and in view of the fact that the findings in W.P. No. 31136 of 1997 have become final and they have also been implemented by the Corporation by virtue of its proceedings dated 23-8-1999, wherein the services of the

juniors to the appellants have been regularized from the dates of their initial appointments, we set aside the order under challenge and are inclined to allow the writ petition as prayed for subject to the condition that if the petitioners, in the other writ petition, are juniors to the appellants herein.

The writ appeal as well as the writ petition is allowed accordingly. No costs.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

25.07.2005

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THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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(Judgment of the Division Bench delivered by

Hon'ble Smt Justice T Meena Kumari)

25th JULY 2005